

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ERIC BARKLEY,	:	CIVIL ACTION NO. 1:20-CV-214
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
C.O. BAUMGARDENER, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 26th day of January, 2021, upon consideration of the motions (Docs. 10, 13) to dismiss by defendants Moses, Knepp, Duncko, and Pope, and upon further consideration of plaintiff's motion (Doc. 17) for leave to amend the complaint, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. Plaintiff's motion (Doc. 17) to amend the complaint is CONSTRUED as a request to supplement to the complaint and is GRANTED as so construed.
 - a. The complaint and supplement are deemed amended to reflect the correct spelling of "Bumgardner" to "Baumgardener."
 - b. The complaint and supplement are deemed amended to reflect the correct spelling of "Neph" to "Knepp."
 - c. The Clerk of Court is directed to TERMINATE correctional officer Snowberger as a defendant in this action.
 - d. The Clerk of Court is directed to ADD correctional officer Newpher as a defendant in this action. The Clerk of Court is further directed to SERVE a copy of the complaint (Doc. 1) and supplement (Doc. 17), notice of lawsuit and request to waive service of summons (form AO 398), waiver of the service of summons (form AO 399), and this order on defendant Newpher. In the interests of efficient

administrative judicial economy, the court requests that defendant waives service pursuant to Federal Rule of Civil Procedure 4(d).

- e. If service is unable to be completed due to plaintiff's failure to properly name the defendant, or provide an accurate mailing address for the defendant, plaintiff will be required to correct this deficiency. Failure to comply may result in the dismissal of plaintiff's claims against the defendant pursuant to Federal Rule of Civil Procedure 4(m).
 - f. Any allegations in the complaint and supplement against correctional officer Snowberger are deemed amended to set forth those same allegations against correctional officer Newpher.
2. Defendants' motions (Docs. 10, 13) to dismiss are GRANTED in part and DENIED in part.
- a. The motion to dismiss the claims against defendants Moses and Knepp is DENIED.
 - b. The motion to dismiss the claims against defendants Pope and Duncko is GRANTED. Defendants Pope and Duncko are DISMISSED from this action. The Clerk of Court is directed to TERMINATE Pope and Duncko as defendants in the above-captioned action.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania